

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

William A. Jacobson, on behalf of
himself and others similarly situated,

Plaintiff,

v.

Mary T. Bassett, in her official capacity
as Acting Commissioner of the New
York Department of Health,

Defendant.

Case No. 3:22-cv-00033-MAD-ML

**[PROPOSED] ORDER GRANTING
MOTION FOR PRELIMINARY INJUNCTION**

The Court concludes that the plaintiff is likely to succeed on the merits of his claims that the New York Department of Health's use of racial preferences in rationing and distributing COVID-19 medication violates the Equal Protection Clause, Title VI, and section 1557 of the Affordable Care Act. The Court further concludes that the plaintiff will suffer irreparable harm absent a preliminary injunction because the plaintiff is experiencing racial discrimination at the hands of government officials, and these injuries are irreparable because the plaintiff cannot obtain damages from the defendants on account of their sovereign immunity. The Court also finds that the balance of equities favors the plaintiff, and the public interest supports a preliminary injunction order.

It is therefore ORDERED that:

1. Defendant Mary T. Bassett and her successors in office, along with their officers, agents, servants, employees, attorneys, designees, and subordinates, as well as any person acting in concert or participation with them, are ENJOINED from discrimi-

nating on account of race or ethnicity in rationing or distributing COVID-19 medication, or in establishing guidelines for determining which patients should receive COVID-19 treatments. This prohibition encompasses any consideration or use of a patient's race or ethnicity as a criterion in determining whether a patient will receive COVID-19 medication or treatment.

2. Because the defendant will not suffer any financial loss on account of this preliminary injunction, there is no need for the plaintiff to post security under Rule 65(c) of the federal rules of civil procedure.

Dated: _____, 2022

MAE A. D'AGOSTINO
UNITED STATES DISTRICT JUDGE